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10 Attorneys for Defendants
11 Patenaude & Felix, A Professional Corporation
12 and Raymond Alcide Patenaude

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 PATRICIA CLAIRE BANKSTON,

17 Plaintiff,

18 vs.

19 PATENAUDE & FELIX, A
20 PROFESSIONAL CORPORATION,
21 a California Corporation, and
22 RAYMOND ALCIDE
23 PATENAUDE, individually and in
24 his official capacity,

25 Defendants.

CASE NO.: C 07 03396 JW PVT

**DECLARATION OF RAYMOND
A. PATENAUDE IN SUPPORT
OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT**

Date: February 25, 2008
Time: 9:00 a.m.
Crtrm.: 8, 4th Floor

The Honorable James Ware

1 I, Raymond A. Patenaude, declare as follows:

2 1. I am a named defendant in this action. I am the sole owner of
3 defendant Patenaude & Felix, A.P.C., a professional law corporation. I am an
4 attorney admitted to the Bar of the State of California and licensed to practice
5 before all of the courts of the State of California. I make this declaration in
6 opposition to Plaintiff's summary judgment motion based upon my personal
7 knowledge, and if called upon, I could and would testify competently to its
8 contents.

9 2. I have been a member of the California Bar for over twenty years.
10 During the past ten years, I have devoted a large portion of my law practice to
11 representing creditors in connection with consumer debt collection litigation. As
12 such, I am familiar with the provisions of the Fair Debt Collection Practices Act,
13 15 U.S.C. § 1692 *et seq.* (the "FDCPA"). I make every effort to comply with the
14 FDCPA, as well as other federal and state laws bearing on collection litigation. I
15 review published court opinions which interpret the FDCPA so I can be aware of
16 how those decisions might bear upon my practice. I receive compliance updates
17 and continuing legal education training concerning FDCPA developments through
18 my association with various industry associations, such as the National
19 Association of Retail Collection Attorneys and the California Creditors Bar
20 Association. I also regularly consult with other collection attorneys and
21 compliance attorneys to discuss recent legal developments that may impact
22 consumer collection litigation.

23 3. I am aware that the FDCPA generally prohibits debt collectors from
24 making false or misleading statements to debtors. I personally review and approve
25 the form of all of the letters that are sent to debtors by my law firm, and I make
26 every effort to ensure that the text of the letters clearly and accurately reflect the
27 information that we are attempting to communicate to the debtor. If a collection
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1 letter is prepared for my signature, I personally review its contents and all relevant
2 portions of the debtor's file before I make the decision to send the letter.

3 4. I am aware that section 1692g of the FDCPA mandates that collectors
4 must advise debtors of certain rights that debtors have with respect to disputing
5 debts and seeking verification of debts. For this reason, my law firm always sends
6 a letter to each debtor as its initial communication to them, advising them of their
7 right to dispute the debt and seek verification. I personally reviewed and approved
8 the letter that is at issue in this case, which is attached as Exhibit 1 to the
9 complaint in this action.

10 5. It is my understanding, based upon my reading of the FDCPA, and
11 my experience and training in collection matters, that if a debtor does not dispute
12 the debt (or any portion of a debt) in writing within the thirty-day period set forth
13 in section 1692g of the FDCPA, then the Act does not require a debt collector to
14 cease collection efforts and provide appropriate verification of the debt. In
15 addition, I understand that if the debtor does not request in writing within the
16 thirty-day period the name and address of the original creditor, if different from
17 the current creditor, then the Act does not require a collector to cease collection
18 efforts and provide that information to the debtor. It is also my understanding,
19 however, that the FDCPA does not prohibit debt collectors from providing debtors
20 with greater protection than the law demands, and that the FDCPA does not
21 prevent collectors from treating oral disputes received during the 30-day period in
22 the same way that they respond to written disputes.

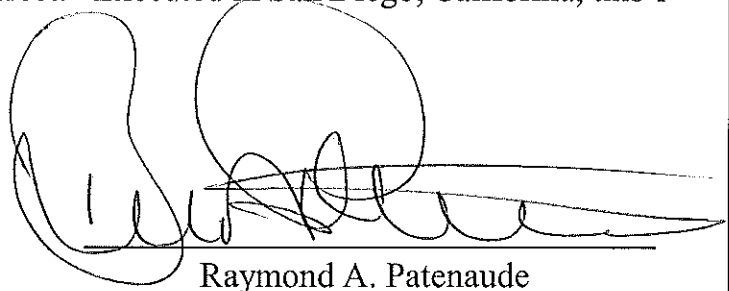
23 6. I made a decision years ago that my firm would honor all disputes and
24 requests for creditor information received from debtors within the 30-day period,
25 regardless of whether the request was provided by the debtor orally or in writing.
26 Although we are not required by law to honor oral disputes or requests under these
27 circumstances, I believe that my policy of honoring all requests received during
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1 the 30-day period complies with the law and makes good business sense. If a
2 debtor has a dispute with respect to a debt, or is unsure of the identity of the
3 original creditor, I want our firm to know this so that we can investigate the
4 matter. I do not want my firm or my clients to expend time and money pursuing
5 debts if the debtor has a legitimate dispute.

6 7. The letter sent to Plaintiff, which is attached as Exhibit 1 to the
7 complaint in this action, accurately describes my office's policy with respect to
8 handling disputes and requests from debtors made within the 30-day validation
9 period. It is my understanding and belief that the letter is drafted consistent with
10 the requirements of the FDCPA, and that it in fact exceeds those requirements. If
11 the debtor notifies my office – either orally or in writing – within thirty days of
12 receiving our initial letter that they dispute the validity of the debt or any portion
13 thereof, then my office will obtain verification of the debt or a copy of the
14 judgment, and we will mail it to the debtor. If requested by the debtor – either
15 orally or in writing – within the thirty-day period, we will provide the name and
16 address of the original creditor, if it is different from the current creditor. It is our
17 policy to cease collection efforts consistent with the FDCPA until the verification,
18 judgment or creditor information has been mailed to the debtor.

19 I declare under penalty of perjury under the laws of the State of California
20 that the foregoing is true and correct. Executed in San Diego, California, this 1st
21 day of February, 2008.

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Raymond A. Patenaude